

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

STEVEN T. MARVIK,

Plaintiff,

Case No. 3:11-cv-00754-MMD-WGC

v.

ORDER

WASHOE COUNTY, *et al.*

Defendant.

Before this Court is the Report and Recommendation of U.S. Magistrate Judge William G. Cobb (dkt. no. 9) entered on April 17, 2012, recommending granting Plaintiff's application for leave to proceed *in forma pauperis* (dkt. no. 1) filed on October 18, 2011. No objection to the Report and Recommendation has been filed. The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)B and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's Report and Recommendation (dkt. no. 9) entered on April 17, 2012, should be adopted and accepted.

IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (dkt. no. 9) entered on April 17, 2012, is adopted and accepted, and Plaintiff's application for leave to proceed *in forma pauperis* (dkt. no. 1) is GRANTED.

1 The movant herein is permitted to maintain this action to conclusion without the  
2 necessity of prepayment of fees or costs. However, this order does not extend to the  
3 issuance of subpoenas at government expense.

4 IT IS FURTHER ORDERED that the Clerk shall file the Complaint (dkt. no. 1-3).

5 IT IS FURTHER ORDERED that Plaintiff's motion requesting a decision on his *in*  
6 *forma pauperis* application (dkt. no. 8) is DENIED as moot.

7 IT IS FURTHER ORDERED that the Clerk's Office shall add the following  
8 additional defendants to the caption: Jim Leslie, Nicole Moschello, Washoe County  
9 Sheriff's Department, Officer Tingley, and Officer Youngblood.

10 IT IS FURTHER ORDERED that Counts I-IV, VI-VII, and IX-XI, and therefore, the  
11 following defendants: Washoe County, Public Defender's Office, District Attorney's  
12 Office, Washoe County Detention Center, Harold G. Albright, Jim Leslie, and Nicole  
13 Moschello, are DISMISSED with prejudice.

14 IT IS FURTHER ORDERED that Jim Leslie is DISMISSED with prejudice from  
15 Count V.

16 IT IS FURTHER ORDERED that the state law negligence claim in Count V is  
17 DISMISSED with leave to amend to identify the proper defendant.

18 IT IS FURTHER ORDERED that the claim for deliberate indifference to a serious  
19 medical need under the Eighth and Fourteenth Amendments in Count V is DISMISSED  
20 with leave to amend.

21 IT IS FURTHER ORDERED that the Fourth and Fourteenth Amendment claim  
22 related to an alleged unreasonable search in Count VIII is DISMISSED with prejudice.


23 IT IS FURTHER ORDERED that Plaintiff is allowed to PROCEED with his Fourth  
24 Amendment excessive force claim against Officers Tingley and Youngblood in Count  
25 VIII.

26 IT IS FURTHER ORDERED that, pursuant to Local Rule 15-1, should Plaintiff  
27 choose to file an amended complaint, it shall be complete in itself without reference to  
28 any previous complaint. Plaintiff is given thirty (30) days from the date of this order

1 within which to file an amended complaint remedying, if possible, the defects in the  
2 complaint explained above. Any allegations, parties, or requests for relief from prior  
3 papers that are not carried forward in the amended complaint will no longer be before  
4 the court. Plaintiff is cautioned that if he fails to file an amended complaint within the time  
5 period specified above, the action will proceed on the Complaint, and only with respect  
6 to those claims which the court has allowed to proceed. Plaintiff shall clearly title the  
7 amended complaint as such by placing the words "AMENDED COMPLAINT" on page 1  
8 in the caption, and Plaintiff shall place the case number, 3:11-cv-00754-MMD-WGC,  
9 above the words "AMENDED COMPLAINT" in the space for "Case No."

10 IT IS SO ORDERED.

11 DATED THIS 10<sup>th</sup> day of July 2012.

12   
13 \_\_\_\_\_  
14 UNITED STATES DISTRICT JUDGE  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28